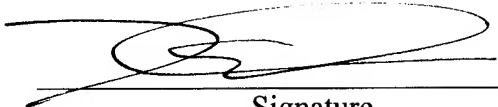


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number A8956	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 10/816,540	Filed March 31, 2004	
	First Named Inventor Leo Tat Man LAU		
	Art Unit 2163	Examiner Binh V. HO	
<p style="text-align: center;">WASHINGTON DC SUGHRUE/142133</p> <p style="text-align: center;">46159</p> <p style="text-align: center;">CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number 59,043</p> <div style="text-align: right;">  Signature </div> <div style="text-align: right;"> Mark E. Wallerson Typed or printed name </div> <div style="text-align: right;"> (202) 293-7060 Telephone number </div> <div style="text-align: right;"> August 21, 2007 Date </div>			

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: A8956

Leo Tat Man LAU, et al.

Appln. No.: 10/816,540

Group Art Unit: 2163

Confirmation No.: 9987

Examiner: Binh V. HO

Filed: March 31, 2004

For: **SYSTEM AND METHOD FOR INCREASING SYSTEM RESOURCE AVAILABILITY
IN DATABASE MANAGEMENT SYSTEMS**

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated April 4, 2007, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

At issue is whether Goodman anticipates the claimed invention as described in the independent claims. Applicant respectfully submits that the rejection is improper and that the final rejection should be withdrawn and the subject application allowed.

As of the final rejection, dated April 4, 2007, claims 1-10 (claims 3 and 6 and now canceled, thereby rendering moot the rejection of claims 3 and 6) are rejected under 35 U.S.C. §102 (b) as allegedly being anticipated by Goodman (U.S. Pub. No. 2006/0059253;

hereinafter “Goodman”). Applicant respectfully disagrees and traverses these rejections because Goodman fails to disclose or suggest all of the claimed limitations.

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102 (b) only if each of the elements as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. Manual of Patent Examination and Procedures (MPEP) section 2131. For the reasons set forth below, the Examiner’s position should be reversed and the subject application allowed.

The claimed invention relates to a system and method for increasing system resource availability in database management systems. The system of the claimed invention supports applications accessing a database server using a specified “**online protocol.**” When one of the applications accesses database server using the online protocol, the database server follows a sequence of operations that will seek to increase the system resources available to the application. The claimed invention uses an **online flag** to specify whether a given application is accessing the database server in the online mode.

When one application sets an online flag in the database server, it means that the application is a multi-transactional application or the application is using the online protocol.

When execution of a request from an application occurs under the online protocol, the server will provide specified error condition indicators to the specified application when resources are determined to be scarce.

These features as explained above are clearly recited in the independent claims as filed on July 3, 2007 (amendment was entered as per Advisory Action mailed July 18, 2007).

For example, claim 1 recites in part

“computer readable program code for determining **whether a specified application is submitting requests using an online protocol**, wherein the computer readable program code for **determining whether the specified application is submitting the requests using the online protocol is carried out by the database server receiving a request specifying that the online protocol is to be used and consequently setting an online flag in the database server**, and

computer readable program code for **returning defined error condition indicators to the specified application when the application is determined to be using the online protocol and when identified system resources are determined to be scarce,...”**

See claim 1

Applicant respectfully submits that Goodman does not teach or suggest the claimed invention as described in claim 1. Goodman relates to an architecture for a netcentric computing system. The system of Goodman uses different protocols to effectuate file transfer, e.g. File Transfer Protocol (FTP), Hypertext Transfer Protocol (HTTP), TCP/IP, etc. See paragraph [0541, and *passim*]. In the Advisory Action, the Examiner indicates that Goodman teaches the limitations recited in the independent claims; namely, a “computer readable program code for determining whether a specified application is submitting requests using an online protocol.” The Examiner indicated that “Goodman discloses in figure 4, application requests using an

online protocol”, also citing in support paragraph [0468]. Applicant respectfully traverses the Examiner’s position.

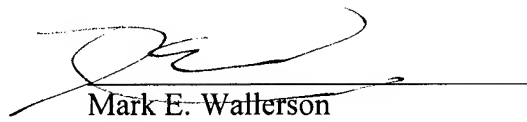
Turning to Goodman, figure 4 depicts a netcentric computing system. Further Goodman teaches that “the web servers are responsible for accepting incoming HTTP messages and fulfilling the requests.” See paragraph [0468]. The Examiner further indicates that “Goodman discloses system errors occur when an application is executed and some kind of serious system level incompatibility is encountered, such as memory/resource depletion”, citing in support paragraphs [0640], [0641]. While Goodman does teach an **error handling/logging services** to log errors and warning messages to create an audit trail to assist the systems support team to recreate the sequence of events that led to an error, Goodman fails to teach “returning defined error condition indicators to the specified application when the application is determined to be using the online protocol when identified system resources are determined to be scarce.”

Applicant respectfully submits that the cited portions or the reference as a whole does not anticipate the claimed invention. The cited portions or the reference as a whole deals with transferring information over a network, e.g. the internet, using some type of transfer protocol FTP, TCP/IP, HTTP etc. Logging error for audit trail to allow retracing of fault events. However, the reference does not teach or suggest **determining whether a specified application is submitting requests using an online protocol** in the meaning of this application nor does Goodman teach **returning defined error condition indicators to the specified application when the application is determined to be using the online protocol and when identified system resources are determined to be scarce**. These distinctions were discussed with the

Examiners during the interview of June 15, 2007. Despite the explanation given to the Examiners during the interview, Examiner Ho continues to maintain that the teachings of Goodman anticipate the claimed invention reciting **“an application using an online protocol”** as defined in the specification and explained above. Applicant respectfully submits that the Examiner’s position is erroneous.

Thus, Applicant respectfully disagrees with the Examiner’s position and requests a Pre-Appeal Panel review of the final Office Action. Applicant respectfully requests that the final rejection be withdrawn and Applicant earnestly solicits the allowance of the claims.

Respectfully submitted,



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Date: August 21, 2007